

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

Forbearance From Applying Provisions of  
the Communications Act to Wireless  
Telecommunications Carriers

WT Docket No. 98-100

REPLY COMMENTS OF  
THE PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION

The Personal Communications Industry Association ("PCIA")<sup>1</sup> hereby submits its reply to comments<sup>2</sup> filed in response to the *Notice of Proposed Rulemaking* ("Notice") in the above-

<sup>1</sup> PCIA is the international trade association created to represent the interests of both the commercial and the private mobile radio service communications industries. PCIA's Federation of Councils includes: the Paging and Messaging Alliance, the Broadband PCS Alliance, the Specialized Mobile Radio Alliance, the Site Owners and Managers Association, the Association of Wireless Communications Engineers and Technicians, the Private Systems Users Alliance, and the Mobile Wireless Communications Alliance. In addition, as the FCC-appointed frequency coordinator for the 450-512 MHz bands in the Business Radio Service, the 800 and 900 MHz Business Pools, the 800 MHz General Category frequencies for Business Eligibles and conventional SMR systems, and the 929 MHz paging frequencies, PCIA represents and serves the interests of tens of thousands of licensees.

<sup>2</sup> On August 12, 1998, the Wireless Telecommunications Bureau extended the deadline for filing comments and reply comments in this proceeding. The deadline for submitting reply comments was extended to September 2, 1998. See *Wireless Telecommunications Bureau Extends the Deadline for Filing Comments in the Forbearance Rulemaking Proceeding*, WT Docket No. 98-100, DA 98-1608 (Public Notice).

captioned proceeding.<sup>3</sup> As demonstrated more fully below, the record reflects unanimous agreement that applying the remaining requirements of the Telephone Operator Consumer Services Improvement Act ("TOCSIA")<sup>4</sup> to Commercial Mobile Radio Services ("CMRS") providers is unnecessary to ensure just and reasonable rates or to protect consumers. In addition, the record convincingly demonstrates that new wireless entrants, such as Local Multipoint Distribution Services ("LMDS") licensees, must not be encumbered with burdensome and costly regulatory obligations if the market is to thrive and lead to the development of new competitive service offerings.

In light of the foregoing, PCIA urges the Commission to take the actions requested herein. First, the Commission should use its Section 10 authority to forbear from applying the remaining TOCSIA requirements to CMRS providers. Second, the Commission should eliminate or forbear from imposing a number of regulatory obligations on LMDS and other similarly situated fixed wireless providers.

**I. THERE IS UNANIMOUS SUPPORT IN THE RECORD FOR FORBEARANCE FROM APPLYING THE REMAINING OPERATOR SERVICE PROVIDER REQUIREMENTS TO CMRS PROVIDERS.**

In its Petition for Forbearance and again in its comments responding to the recent *Notice*, PCIA demonstrated that Section 10 compels the Commission to forbear from applying the

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<sup>3</sup> *Forbearance from Applying Provisions of the Communications Act to Wireless Telecommunications Carriers*, WT Docket No. 98-100, FCC 98-134 (rel. July 2, 1998) (Notice of Proposed Rulemaking) ("*Notice*").

<sup>4</sup> *See* 47 U.S.C. § 226.

TOCSIA requirements to CMRS providers acting as operator service providers ("OSPs").<sup>5</sup> PCIA has shown that there is substantial record evidence, including the complete absence of consumer complaints and the highly competitive nature of the wireless market, which supports a grant of forbearance relief. The parties that addressed TOCSIA in the opening round of comments *all* agree that forbearance from applying these provisions to CMRS providers is warranted under Section 10.<sup>6</sup> Not a single party contends that these requirements are needed. Accordingly, the Commission should grant the relief sought and forbear from imposing the remaining TOCSIA obligations on CMRS providers acting as OSPs.<sup>7</sup>

As PCIA and other commenters have repeatedly shown, enforcement of the TOCSIA obligations in the CMRS context simply makes no sense.<sup>8</sup> Indeed, as GTE states, "[t]he

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<sup>5</sup> PCIA Petition for Forbearance for Broadband Personal Communications Services at 38-49 (filed May 22, 1997) ("PCIA Forbearance Petition"); Comments of PCIA, WT Docket No. 98-100, at 6-18 (filed Aug. 3, 1998) ("PCIA Comments").

<sup>6</sup> See Comments of GTE, WT Docket No. 98-100, at 6-11 (filed Aug. 3, 1998); ("GTE Comments"); PCIA Comments at 6-18; Comments of Omnipoint Communications, Inc., WT Docket No. 98-100, at 1 (filed Aug. 3, 1998) ("Omnipoint Comments"); Comments of Southwestern Bell Mobile Systems, Inc. and Pacific Bell Mobile Services, WT Docket No. 98-100, at 2 (filed July 31, 1998). In addition to supporting PCIA's request for forbearance, Omnipoint asks the Commission to clarify that TOCSIA does not apply to customer notification processes associated with a CMRS calling party pays ("CPP") service or, in the alternative, to forbear from such regulation. (Omnipoint Comments at 1.) PCIA concurs with Omnipoint's conclusion that TOCSIA does not apply in this context. However, should the Commission find that TOCSIA does, in fact, apply to CMRS CPP services, PCIA agrees that forbearance is warranted.

<sup>7</sup> PCIA's request is limited to forbearance relief for CMRS providers acting as OSPs. PCIA does not take any position on whether the Commission should forbear from applying the TOCSIA requirements to CMRS aggregators.

<sup>8</sup> See PCIA Forbearance Petition at 46, 48-49; PCIA Comments at 8-18; GTE Comments at 6-9; Comments of GTE Service Corporation on PCIA's Petition, DA 97-1155, at 10 (filed July 2, 1997); Reply Comments of BellSouth Corporation on PCIA's Petition, DA 97-1155, at 5 (filed  
(Continued...)

relationship between CMRS providers and aggregators is not conducive to implementation of TOCSIA requirements.”<sup>9</sup> In addition, the record clearly demonstrates that compliance with TOCSIA imposes substantial costs on CMRS providers without providing offsetting benefits to consumers. GTE correctly concludes that “the cost[s] of compliance with TOCSIA OSP provisions are not justified by the miniscule potential benefits that TOCSIA might bring to transient wireless public phone users.”<sup>10</sup> The Commission should not ignore the compelling evidence before it. The record unambiguously shows that the Section 10 standard is met; therefore, the Commission is obligated to forbear from applying the remaining TOCSIA requirements to CMRS providers acting as OSPs.

**II. THE COMMENTING PARTIES AGREE THAT THE COMMISSION SHOULD EXTEND FORBEARANCE TO OTHER WIRELESS CARRIERS, INCLUDING LMDS PROVIDERS.**

In its comments, PCIA urged the Commission to forbear from applying various statutory and Commission requirements to LMDS licensees (including mandatory resale obligations, TOCSIA obligations, and international 214 requirements).<sup>11</sup> As PCIA explained, forbearance will allow these new entrants to focus their resources on building new, facilities-based networks that will expand the telecommunications choices available to consumers.<sup>12</sup> A number of other

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(...Continued)  
July 17, 1997).

<sup>9</sup> GTE Comments at 6.

<sup>10</sup> *Id.* at 11.

<sup>11</sup> PCIA Comments at 18-19.

<sup>12</sup> *Id.* at 19.

commenters endorse PCIA's recommendation for a streamlined regulatory framework for LMDS.<sup>13</sup> For example, the Rural Telecommunications Group ("RTG") points out that, "[i]n order to realize the hope of competition by LMDS in the local telephony and video distribution markets, the Commission must adopt the least burdensome, least costly regulatory structure possible for LMDS."<sup>14</sup> In addition, Wireless Communications Association International, Inc. ("WCA") correctly recognizes that "both the 1996 Act and Commission precedent support the exercise of Section 10 forbearance as a means of fulfilling Congress' intent and facilitating fixed wireless entry into the local exchange and other telecommunications markets."<sup>15</sup>

It is clear that forbearance from imposing regulatory burdens on LMDS and other fixed wireless providers will serve the public interest. Forbearance will reduce the regulatory costs imposed on LMDS licensees, which, in turn, will promote competition among providers as well as encourage the deployment of new and innovative broadband services. Thus, to foster growth in this infant industry, the Commission should act promptly to review the regulatory burdens imposed on LMDS providers and either eliminate or forbear from imposing those requirements that stifle competition and impede the delivery of new services to the public.

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<sup>13</sup> See Comments and Petition for Further Notice of Proposed Rulemaking of the Rural Telecommunications Group, WT Docket No. 98-100, at 1, 4-9 (filed Aug. 3, 1998) ("RTG Comments"); Comments of Wireless Communications Association International, Inc., WT Docket No. 98-100 (filed Aug. 18, 1998) ("WCA Comments").

<sup>14</sup> RTG Comments at 6.

<sup>15</sup> WCA Comments at 3.

## CONCLUSION

For all of the foregoing reasons, PCIA urges the Commission to use its Section 10 authority: (1) to forbear from imposing the remaining TOCSIA requirements on CMRS providers and (2) to forbear from imposing unnecessary obligations on LMDS and similarly situated fixed wireless providers.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

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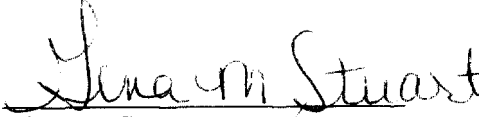


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